

AMENDED IN SENATE AUGUST 15, 2016

AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 2900**

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**Introduced by Committee on Jobs, Economic Development, and the Economy (Assembly Members Eduardo Garcia (Chair), Brough, Brown, Chau, Chu, Gipson, Irwin, and Mathis)**

March 3, 2016

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An act to add Chapter 8 (commencing with Section 7400) to Part 1 of Division 2 of the Public Contract Code, *and to amend Sections 17059.2 and 23689 of the Revenue and Taxation Code*, relating to economic development.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2900, as amended, Committee on Jobs, Economic Development, and the Economy. Small business technical assistance ~~centers~~: *centers: income taxation: credits: California Competes Tax Credit Committee: GO-Biz.*

Existing law, the Small Business Procurement and Contract Act, requires the Director of General Services and other state agencies that enter into contracts for the provision of goods, services, and information technology and for the construction of state facilities to establish goals for the participation of small businesses in these contracts, to provide for small business preference in the award of these contracts, to give special consideration and special assistance to small businesses, and, whenever possible, to make awards to small businesses, as specified.

This bill, for contracts awarded on or after September 1, 2017, and before December 31, 2021, would require an awarding department, as defined, to report to the Legislature by a specified date following any year that state funds are awarded to a federal small business technical assistance center, as defined. The bill would require a federal small business technical assistance center, as a condition of receiving state funds, to report certain information to the awarding department, including, but not limited to, the total number of businesses assisted.

*Existing law allows a credit against the taxes imposed under the Corporation Tax Law and the Personal Income Tax Law for each taxable year beginning on or after January 1, 2014, and before January 1, 2025, in an amount as provided in a written agreement between the Governor's Office of Business and Economic Development and the taxpayer, agreed upon by the California Competes Tax Credit Committee, and based on specified factors, including the number of jobs the taxpayer will create or retain in the state and the amount of investment in the state by the taxpayer. Existing law limits the aggregate amount of credit that may be allocated in a fiscal year. Existing law requires the Governor's Office of Business and Economic Development to post on its Internet Web site specified information, including the name of each taxpayer allocated a credit, the estimated number of jobs created or retained and the amount of investment by the taxpayer, the amount of credit allocated to the taxpayer, and, if applicable, the amount of credit recaptured from the taxpayer.*

*This bill additionally would require the Governor's Office of Business and Economic Development to post on its Internet Web site, the primary location where the taxpayer has committed to increasing the net number of jobs or make investments, information that identifies each tax credit award that was given a priority for being located in an area of high unemployment or poverty, and information that identifies each tax credit award that is being counted toward the amount of the credit required to be allocated to small business, as provided.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Chapter 8 (commencing with Section 7400) is
- 2 added to Part 1 of Division 2 of the Public Contract Code, to read:

CHAPTER 8. SMALL BUSINESS TECHNICAL ASSISTANCE CENTERS

7400. (a) Following any year that state funds are awarded by an awarding department to a federal small business technical assistance center, the awarding department shall provide a report to the Legislature that includes, at a minimum:

(1) The purpose of the contract and contract metrics.

(2) The amount of state funds awarded and expended during the report year.

(3) The information required by subdivision (c).

(b) The information in the report to the Legislature described in paragraph (3) of subdivision (a) shall be based on information provided by the federal small business development center pursuant to subdivision (c).

(c) As a condition of being awarded state funds, a federal small business technical assistance center shall report to the awarding department all of the following:

~~(1) The amount of federal funds drawn down as a result of funding through the state contract, if any.~~

~~(2)~~

~~(1)~~ The total number of businesses assisted.

~~(3)~~

~~(2)~~ The number of businesses assisted by industry sector, as reported by the businesses.

~~(4)~~

~~(3)~~ The number of businesses assisted by city and county. If the population of the county is less than 250,000, only the name of the county is required to be reported.

~~(5)~~

~~(4)~~ The number of businesses assisted based on the following categories: no employees, five or fewer employees, 25 or fewer employees, 100 or fewer employees, and between 101 and 500 employees, as reported by the businesses.

~~(6)~~

~~(5)~~ If job creation is one of the purposes of the program, the total number of jobs created and the total number of jobs retained, as reported by the business.

~~(7) Other program outcomes related to the purpose of the program and contract measurements and metrics, as determined by the awarding department.~~

(d) For the purposes of this section, the following terms shall have the following meanings:

(1) An “awarding department” means a department, board, agency, or authority of the state, or an officer, agent, or other authorized representative of such a state entity awarding a contract for services, including technical assistance to small businesses.

(2) A “federal small business technical assistance center” means a Small Business Development Center, a Women’s Business Center, a Veteran Business Outreach Center, or a Procurement Technical Assistance Center operating in California under a federal contract.

(3) A “Procurement Technical Assistance Center” means the entity and individual, physical location, recognized by the United States Department of Defense where a small business owner can receive free training on a variety of state and federal procurement issues, that is operated by the Department of Defense pursuant to Chapter 142 (commencing with Section 2411) of Part IV of Subtitle A of Title 10 of the United States Code.

(4) A “Small Business Development Center” means the entity and individual, physical location, recognized by the federal Small Business Administration where a small business owner or an aspiring entrepreneur can receive free one-on-one consulting and low at-cost training on a variety of topics including starting, operating, and expanding a small business, that is operated by the Small Business Administration and is authorized by “The Small Business Development Center Act of 1980” (Public Law 96-302).

(5) A “Veteran Business Outreach Center” means the entity and individual, physical location, recognized by the federal Small Business Administration where a small business veteran owner or an aspiring veteran entrepreneur can receive free one-on-one consulting and low at-cost training on a variety of topics including starting, operating, and expanding a small business, that is operated by the Small Business Administration pursuant to Section 657b of Title 15 of the United States Code.

(6) A “Women’s Business Center” means the entity and individual, physical location, recognized by the federal Small Business Administration where a small business owner or an aspiring entrepreneur can receive free one-on-one consulting and low at-cost training on a variety of topics including starting, operating, and expanding a small business, that is operated by the

1 Small Business Administration and is authorized by the “Women’s  
2 Business Ownership Act of 1988” (Public Law 100-533).

3 (e) The report to the Legislature, required pursuant to  
4 subdivision (a), shall be submitted in compliance with Section  
5 9795 of the Government Code, and shall be posted on the Internet  
6 Web site of the awarding department.

7 (f) To the extent that any provision of this chapter conflicts with  
8 a federal regulation or law, the provision shall be inoperable.

9 (g) As an alternative to submitting the information pursuant to  
10 subdivision (e), an awarding department may include the same  
11 information in another annual report of the awarding department  
12 and, in doing so, the report date in subdivision (a) may be modified  
13 up to three months.

14 (h) (1) This chapter applies to contracts awarded on or after  
15 September 1, 2017, and before December 31, 2021.

16 (2) Notwithstanding Section 10231.5 of the Government Code,  
17 this chapter shall become inoperative on January 1, 2022.

18 *SEC. 2. Section 17059.2 of the Revenue and Taxation Code is*  
19 *amended to read:*

20 17059.2. (a) (1) For each taxable year beginning on and after  
21 January 1, 2014, and before January 1, 2025, there shall be allowed  
22 as a credit against the “net tax,” as defined in Section 17039, an  
23 amount as determined by the committee pursuant to paragraph (2)  
24 and approved pursuant to Section 18410.2.

25 (2) The credit under this section shall be allocated by GO-Biz  
26 with respect to the 2013–14 fiscal year through and including the  
27 2017–18 fiscal year. The amount of credit allocated to a taxpayer  
28 with respect to a fiscal year pursuant to this section shall be as set  
29 forth in a written agreement between GO-Biz and the taxpayer and  
30 shall be based on the following factors:

31 (A) The number of jobs the taxpayer will create or retain in this  
32 state.

33 (B) The compensation paid or proposed to be paid by the  
34 taxpayer to its employees, including wages and fringe benefits.

35 (C) The amount of investment in this state by the taxpayer.

36 (D) The extent of unemployment or poverty in the area  
37 according to the United States Census in which the taxpayer’s  
38 project or business is proposed or located.

1 (E) The incentives available to the taxpayer in this state,  
2 including incentives from the state, local government, and other  
3 entities.

4 (F) The incentives available to the taxpayer in other states.

5 (G) The duration of the proposed project and the duration the  
6 taxpayer commits to remain in this state.

7 (H) The overall economic impact in this state of the taxpayer's  
8 project or business.

9 (I) The strategic importance of the taxpayer's project or business  
10 to the state, region, or locality.

11 (J) The opportunity for future growth and expansion in this state  
12 by the taxpayer's business.

13 (K) The extent to which the anticipated benefit to the state  
14 exceeds the projected benefit to the taxpayer from the tax credit.

15 (3) The written agreement entered into pursuant to paragraph  
16 (2) shall include:

17 (A) Terms and conditions that include the taxable year or years  
18 for which the credit allocated shall be allowed, a minimum  
19 compensation level, and a minimum job retention period.

20 (B) Provisions indicating whether the credit is to be allocated  
21 in full upon approval or in increments based on mutually agreed  
22 upon milestones when satisfactorily met by the taxpayer.

23 (C) Provisions that allow the committee to recapture the credit,  
24 in whole or in part, if the taxpayer fails to fulfill the terms and  
25 conditions of the written agreement.

26 (b) For purposes of this section:

27 (1) "Committee" means the California Competes Tax Credit  
28 Committee established pursuant to Section 18410.2.

29 (2) "GO-Biz" means the Governor's Office of Business and  
30 Economic Development.

31 (c) For purposes of this section, GO-Biz shall do the following:

32 (1) Give priority to a taxpayer whose project or business is  
33 located or proposed to be located in an area of high unemployment  
34 or poverty.

35 (2) Negotiate with a taxpayer the terms and conditions of  
36 proposed written agreements that provide the credit allowed  
37 pursuant to this section to a taxpayer.

38 (3) Provide the negotiated written agreement to the committee  
39 for its approval pursuant to Section 18410.2.

1 (4) Inform the Franchise Tax Board of the terms and conditions  
2 of the written agreement upon approval of the written agreement  
3 by the committee.

4 (5) Inform the Franchise Tax Board of any recapture, in whole  
5 or in part, of a previously allocated credit upon approval of the  
6 recapture by the committee.

7 (6) Post on its Internet Web site all of the following:

8 (A) The name of each taxpayer allocated a credit pursuant to  
9 this section.

10 (B) The estimated amount of the investment by each taxpayer.

11 (C) The estimated number of jobs created or retained.

12 (D) The amount of the credit allocated to the taxpayer.

13 (E) The amount of the credit recaptured from the taxpayer, if  
14 applicable.

15 (F) *The primary location where the taxpayer has committed to*  
16 *increasing the net number of jobs or make investments. The*  
17 *primary location shall be listed by city or, in the case of*  
18 *unincorporated areas, by county.*

19 (G) *Information that identifies each tax credit award that was*  
20 *given a priority for being located in a high unemployment or*  
21 *poverty area, pursuant to paragraph (1).*

22 (H) *Information that identifies each tax credit award that is*  
23 *being counted toward the requirement of paragraph (3) of*  
24 *subdivision (g).*

25 (7) When determining whether to enter into a written agreement  
26 with a taxpayer pursuant to this section, GO-Biz may consider  
27 other factors, including, but not limited to, the following:

28 (A) The financial solvency of the taxpayer and the taxpayer's  
29 ability to finance its proposed expansion.

30 (B) The taxpayer's current and prior compliance with federal  
31 and state laws.

32 (C) Current and prior litigation involving the taxpayer.

33 (D) The reasonableness of the fee arrangement between the  
34 taxpayer and any third party providing any services related to the  
35 credit allowed pursuant to this section.

36 (E) Any other factors GO-Biz deems necessary to ensure that  
37 the administration of the credit allowed pursuant to this section is  
38 a model of accountability and transparency and that the effective  
39 use of the limited amount of credit available is maximized.

(d) For purposes of this section, the Franchise Tax Board shall do all of the following:

(1) (A) Except as provided in subparagraph (B), review the books and records of all taxpayers allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayer and GO-Biz.

(B) In the case of a taxpayer that is a “small business,” as defined in Section 17053.73, review the books and records of the taxpayer allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayer and GO-Biz when, in the sole discretion of the Franchise Tax Board, a review of those books and records is appropriate or necessary in the best interests of the state.

(2) Notwithstanding Section 19542:

(A) Notify GO-Biz of a possible breach of the written agreement by a taxpayer and provide detailed information regarding the basis for that determination.

(B) Provide information to GO-Biz with respect to whether a taxpayer is a “small business,” as defined in Section 17053.73.

(e) In the case where the credit allowed under this section exceeds the “net tax,” as defined in Section 17039, for a taxable year, the excess credit may be carried over to reduce the “net tax” in the following taxable year, and succeeding five taxable years, if necessary, until the credit has been exhausted.

(f) Any recapture, in whole or in part, of a credit approved by the committee pursuant to Section 18410.2 shall be treated as a mathematical error appearing on the return. Any amount of tax resulting from that recapture shall be assessed by the Franchise Tax Board in the same manner as provided by Section 19051. The amount of tax resulting from the recapture shall be added to the tax otherwise due by the taxpayer for the taxable year in which the committee’s recapture determination occurred.

(g) (1) The aggregate amount of credit that may be allocated in any fiscal year pursuant to this section and Section 23689 shall be an amount equal to the sum of subparagraphs (A), (B), and (C), less the amount specified in subparagraphs (D) and (E):

(A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal year, one hundred fifty million dollars (\$150,000,000) for the 2014–15 fiscal year, and two hundred million dollars



1 (\$200,000,000) for each fiscal year from 2015–16 to 2017–18,  
2 inclusive.

3 (B) The unallocated credit amount, if any, from the preceding  
4 fiscal year.

5 (C) The amount of any previously allocated credits that have  
6 been recaptured.

7 (D) The amount estimated by the Director of Finance, in  
8 consultation with the Franchise Tax Board and the State Board of  
9 Equalization, to be necessary to limit the aggregation of the  
10 estimated amount of exemptions claimed pursuant to Section  
11 6377.1 and of the amounts estimated to be claimed pursuant to  
12 this section and Sections 17053.73, 23626, and 23689 to no more  
13 than seven hundred fifty million dollars (\$750,000,000) for either  
14 the current fiscal year or the next fiscal year.

15 (i) The Director of Finance shall notify the Chairperson of the  
16 Joint Legislative Budget Committee of the estimated annual  
17 allocation authorized by this paragraph. Any allocation pursuant  
18 to these provisions shall be made no sooner than 30 days after  
19 written notification has been provided to the Chairperson of the  
20 Joint Legislative Budget Committee and the chairpersons of the  
21 committees of each house of the Legislature that consider  
22 ~~appropriation~~, *appropriations*, or not sooner than whatever lesser  
23 time the Chairperson of the Joint Legislative Budget Committee,  
24 or his or her designee, may determine.

25 (ii) In no event shall the amount estimated in this subparagraph  
26 be less than zero dollars (\$0).

27 (E) (i) For the 2015–16 fiscal year and each fiscal year  
28 thereafter, the amount of credit estimated by the Director of Finance  
29 to be allowed to all qualified taxpayers for that fiscal year pursuant  
30 to subparagraph (A) or subparagraph (B) of paragraph (1) of  
31 subdivision (c) of Section 23636.

32 (ii) If the amount available per fiscal year pursuant to this section  
33 and Section 23689 is less than the aggregate amount of credit  
34 estimated by the Director of Finance to be allowed to qualified  
35 taxpayers pursuant to subparagraph (A) or subparagraph (B) of  
36 paragraph (1) of subdivision (c) of Section 23636, the aggregate  
37 amount allowed pursuant to Section 23636 shall not be reduced  
38 and, in addition to the reduction required by clause (i), the  
39 aggregate amount of credit that may be allocated pursuant to this

1 section and Section 23689 for the next fiscal year shall be reduced  
2 by the amount of that deficit.

3 (iii) It is the intent of the Legislature that the reductions specified  
4 in this subparagraph of the aggregate amount of credit that may  
5 be allocated pursuant to this section and Section 23689 shall  
6 continue if the repeal dates of the credits allowed by this section  
7 and Section 23689 are removed or extended.

8 (2) (A) In addition to the other amounts determined pursuant  
9 to paragraph (1), the Director of Finance may increase the  
10 aggregate amount of credit that may be allocated pursuant to this  
11 section and Section 23689 by up to twenty-five million dollars  
12 (\$25,000,000) per fiscal year through the 2017–18 fiscal year. The  
13 amount of any increase made pursuant to this paragraph, when  
14 combined with any increase made pursuant to paragraph (2) of  
15 subdivision (g) of Section 23689, shall not exceed twenty-five  
16 million dollars (\$25,000,000) per fiscal year through the 2017–18  
17 fiscal year.

18 (B) It is the intent of the Legislature that the Director of Finance  
19 increase the aggregate amount under subparagraph (A) in order to  
20 mitigate the reduction of the amount available due to the credit  
21 allowed to all qualified taxpayers pursuant to subparagraph (A) or  
22 (B) of paragraph (1) of subdivision (c) of Section 23636.

23 (3) Each fiscal year, 25 percent of the aggregate amount of the  
24 credit that may be allocated pursuant to this section and Section  
25 23689 shall be reserved for small business, as defined in Section  
26 17053.73 or 23626.

27 (4) Each fiscal year, no more than 20 percent of the aggregate  
28 amount of the credit that may be allocated pursuant to this section  
29 shall be allocated to any one taxpayer.

30 (h) GO-Biz may prescribe rules and regulations as necessary to  
31 carry out the purposes of this section. Any rule or regulation  
32 prescribed pursuant to this section may be by adoption of an  
33 emergency regulation in accordance with Chapter 3.5 (commencing  
34 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
35 Government Code.

36 (i) A written agreement between GO-Biz and a taxpayer with  
37 respect to the credit authorized by this section shall comply with  
38 existing law on the date the agreement is executed.

39 (j) (1) Upon the effective date of this section, the Department  
40 of Finance shall estimate the total dollar amount of credits that

1 will be claimed under this section with respect to each fiscal year  
2 from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.

3 (2) The Franchise Tax Board shall annually provide to the Joint  
4 Legislative Budget Committee, by no later than March 1, a report  
5 of the total dollar amount of the credits claimed under this section  
6 with respect to the relevant fiscal year. The report shall compare  
7 the total dollar amount of credits claimed under this section with  
8 respect to that fiscal year with the department’s estimate with  
9 respect to that same fiscal year. If the total dollar amount of credits  
10 claimed for the fiscal year is less than the estimate for that fiscal  
11 year, the report shall identify options for increasing annual claims  
12 of the credit so as to meet estimated amounts.

13 (k) This section is repealed on December 1, 2025.

14 *SEC. 3. Section 23689 of the Revenue and Taxation Code is*  
15 *amended to read:*

16 23689. (a) (1) For each taxable year beginning on and after  
17 January 1, 2014, and before January 1, 2025, there shall be allowed  
18 as a credit against the “tax,” as defined in Section 23036, an amount  
19 as determined by the committee pursuant to paragraph (2) and  
20 approved pursuant to Section 18410.2.

21 (2) The credit under this section shall be allocated by GO-Biz  
22 with respect to the 2013–14 fiscal year through and including the  
23 2017–18 fiscal year. The amount of credit allocated to a taxpayer  
24 with respect to a fiscal year pursuant to this section shall be as set  
25 forth in a written agreement between GO-Biz and the taxpayer and  
26 shall be based on the following factors:

27 (A) The number of jobs the taxpayer will create or retain in this  
28 state.

29 (B) The compensation paid or proposed to be paid by the  
30 taxpayer to its employees, including wages and fringe benefits.

31 (C) The amount of investment in this state by the taxpayer.

32 (D) The extent of unemployment or poverty in the area  
33 according to the United States Census in which the taxpayer’s  
34 project or business is proposed or located.

35 (E) The incentives available to the taxpayer in this state,  
36 including incentives from the state, local government, and other  
37 entities.

38 (F) The incentives available to the taxpayer in other states.

39 (G) The duration of the proposed project and the duration the  
40 taxpayer commits to remain in this state.

1 (H) The overall economic impact in this state of the taxpayer's  
2 project or business.

3 (I) The strategic importance of the taxpayer's project or business  
4 to the state, region, or locality.

5 (J) The opportunity for future growth and expansion in this state  
6 by the taxpayer's business.

7 (K) The extent to which the anticipated benefit to the state  
8 exceeds the projected benefit to the taxpayer from the tax credit.

9 (3) The written agreement entered into pursuant to paragraph  
10 (2) shall include:

11 (A) Terms and conditions that include the taxable year or years  
12 for which the credit allocated shall be allowed, a minimum  
13 compensation level, and a minimum job retention period.

14 (B) Provisions indicating whether the credit is to be allocated  
15 in full upon approval or in increments based on mutually agreed  
16 upon milestones when satisfactorily met by the taxpayer.

17 (C) Provisions that allow the committee to recapture the credit,  
18 in whole or in part, if the taxpayer fails to fulfill the terms and  
19 conditions of the written agreement.

20 (b) For purposes of this section:

21 (1) "Committee" means the California Competes Tax Credit  
22 Committee established pursuant to Section 18410.2.

23 (2) "GO-Biz" means the Governor's Office of Business and  
24 Economic Development.

25 (c) For purposes of this section, GO-Biz shall do the following:

26 (1) Give priority to a taxpayer whose project or business is  
27 located or proposed to be located in an area of high unemployment  
28 or poverty.

29 (2) Negotiate with a taxpayer the terms and conditions of  
30 proposed written agreements that provide the credit allowed  
31 pursuant to this section to a taxpayer.

32 (3) Provide the negotiated written agreement to the committee  
33 for its approval pursuant to Section 18410.2.

34 (4) Inform the Franchise Tax Board of the terms and conditions  
35 of the written agreement upon approval of the written agreement  
36 by the committee.

37 (5) Inform the Franchise Tax Board of any recapture, in whole  
38 or in part, of a previously allocated credit upon approval of the  
39 recapture by the committee.

40 (6) Post on its Internet Web site all of the following:

1 (A) The name of each taxpayer allocated a credit pursuant to  
2 this section.

3 (B) The estimated amount of the investment by each taxpayer.

4 (C) The estimated number of jobs created or retained.

5 (D) The amount of the credit allocated to the taxpayer.

6 (E) The amount of the credit recaptured from the taxpayer, if  
7 applicable.

8 *(F) The primary location where the taxpayer has committed to*  
9 *increasing the net number of jobs or make investments. The*  
10 *primary location shall be listed by city or, in the case of*  
11 *unincorporated areas, by county.*

12 *(G) Information that identifies each tax credit award that was*  
13 *given a priority for being located in a high unemployment or*  
14 *poverty area, pursuant to paragraph (1).*

15 *(H) Information that identifies each tax credit award that is*  
16 *being counted toward the requirement of paragraph (3) of*  
17 *subdivision (g).*

18 (7) When determining whether to enter into a written agreement  
19 with a taxpayer pursuant to this section, GO-Biz may consider  
20 other factors, including, but not limited to, the following:

21 (A) The financial solvency of the taxpayer and the taxpayer's  
22 ability to finance its proposed expansion.

23 (B) The taxpayer's current and prior compliance with federal  
24 and state laws.

25 (C) Current and prior litigation involving the taxpayer.

26 (D) The reasonableness of the fee arrangement between the  
27 taxpayer and any third party providing any services related to the  
28 credit allowed pursuant to this section.

29 (E) Any other factors GO-Biz deems necessary to ensure that  
30 the administration of the credit allowed pursuant to this section is  
31 a model of accountability and transparency and that the effective  
32 use of the limited amount of credit available is maximized.

33 (d) For purposes of this section, the Franchise Tax Board shall  
34 do all of the following:

35 (1) (A) Except as provided in subparagraph (B), review the  
36 books and records of all taxpayers allocated a credit pursuant to  
37 this section to ensure compliance with the terms and conditions  
38 of the written agreement between the taxpayer and GO-Biz.

39 (B) In the case of a taxpayer that is a "small business," as  
40 defined in Section 23626, review the books and records of the

1 taxpayer allocated a credit pursuant to this section to ensure  
2 compliance with the terms and conditions of the written agreement  
3 between the taxpayer and GO-Biz when, in the sole discretion of  
4 the Franchise Tax Board, a review of those books and records is  
5 appropriate or necessary in the best interests of the state.

6 (2) Notwithstanding Section 19542:

7 (A) Notify GO-Biz of a possible breach of the written agreement  
8 by a taxpayer and provide detailed information regarding the basis  
9 for that determination.

10 (B) Provide information to GO-Biz with respect to whether a  
11 taxpayer is a “small business,” as defined in Section 23626.

12 (e) In the case where the credit allowed under this section  
13 exceeds the “tax,” as defined in Section 23036, for a taxable year,  
14 the excess credit may be carried over to reduce the “tax” in the  
15 following taxable year, and succeeding five taxable years, if  
16 necessary, until the credit has been exhausted.

17 (f) Any recapture, in whole or in part, of a credit approved by  
18 the committee pursuant to Section 18410.2 shall be treated as a  
19 mathematical error appearing on the return. Any amount of tax  
20 resulting from that recapture shall be assessed by the Franchise  
21 Tax Board in the same manner as provided by Section 19051. The  
22 amount of tax resulting from the recapture shall be added to the  
23 tax otherwise due by the taxpayer for the taxable year in which  
24 the committee’s recapture determination occurred.

25 (g) (1) The aggregate amount of credit that may be allocated  
26 in any fiscal year pursuant to this section and Section 17059.2 shall  
27 be an amount equal to the sum of subparagraphs (A), (B), and (C),  
28 less the amount specified in subparagraphs (D) and (E):

29 (A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal  
30 year, one hundred fifty million dollars (\$150,000,000) for the  
31 2014–15 fiscal year, and two hundred million dollars  
32 (\$200,000,000) for each fiscal year from 2015–16 to 2017–18,  
33 inclusive.

34 (B) The unallocated credit amount, if any, from the preceding  
35 fiscal year.

36 (C) The amount of any previously allocated credits that have  
37 been recaptured.

38 (D) The amount estimated by the Director of Finance, in  
39 consultation with the Franchise Tax Board and the State Board of  
40 Equalization, to be necessary to limit the aggregation of the

1 estimated amount of exemptions claimed pursuant to Section  
2 6377.1 and of the amounts estimated to be claimed pursuant to  
3 this section and Sections 17053.73, 17059.2, and 23626 to no more  
4 than seven hundred fifty million dollars (\$750,000,000) for either  
5 the current fiscal year or the next fiscal year.

6 (i) The Director of Finance shall notify the Chairperson of the  
7 Joint Legislative Budget Committee of the estimated annual  
8 allocation authorized by this paragraph. Any allocation pursuant  
9 to these provisions shall be made no sooner than 30 days after  
10 written notification has been provided to the Chairperson of the  
11 Joint Legislative Budget Committee and the chairpersons of the  
12 committees of each house of the Legislature that consider  
13 ~~appropriation~~, *appropriations*, or not sooner than whatever lesser  
14 time the Chairperson of the Joint Legislative Budget Committee,  
15 or his or her designee, may determine.

16 (ii) In no event shall the amount estimated in this subparagraph  
17 be less than zero dollars (\$0).

18 (E) (i) For the 2015–16 fiscal year and each fiscal year  
19 thereafter, the amount of credit estimated by the Director of Finance  
20 to be allowed to all qualified taxpayers for that fiscal year pursuant  
21 to subparagraph (A) or subparagraph (B) of paragraph (1) of  
22 subdivision (c) of Section 23636.

23 (ii) If the amount available per fiscal year pursuant to this section  
24 and Section 17059.2 is less than the aggregate amount of credit  
25 estimated by the Director of Finance to be allowed to qualified  
26 taxpayers pursuant to subparagraph (A) or subparagraph (B) of  
27 paragraph (1) of subdivision (c) of Section 23636, the aggregate  
28 amount allowed pursuant to Section 23636 shall not be reduced  
29 and, in addition to the reduction required by clause (i), the  
30 aggregate amount of credit that may be allocated pursuant to this  
31 section and Section 17059.2 for the next fiscal year shall be reduced  
32 by the amount of that deficit.

33 (iii) It is the intent of the Legislature that the reductions specified  
34 in this subparagraph of the aggregate amount of credit that may  
35 be allocated pursuant to this section and Section 17059.2 shall  
36 continue if the repeal dates of the credits allowed by this section  
37 and Section 17059.2 are removed or extended.

38 (2) (A) In addition to the other amounts determined pursuant  
39 to paragraph (1), the Director of Finance may increase the  
40 aggregate amount of credit that may be allocated pursuant to this

1 section and Section 17059.2 by up to twenty-five million dollars  
2 (\$25,000,000) per fiscal year through the 2017–18 fiscal year. The  
3 amount of any increase made pursuant to this paragraph, when  
4 combined with any increase made pursuant to paragraph (2) of  
5 subdivision (g) of Section 17059.2, shall not exceed twenty-five  
6 million dollars (\$25,000,000) per fiscal year through the 2017–18  
7 fiscal year.

8 (B) It is the intent of the Legislature that the Director of Finance  
9 increase the aggregate amount under subparagraph (A) in order to  
10 mitigate the reduction of the amount available due to the credit  
11 allowed to all qualified taxpayers pursuant to subparagraph (A) or  
12 (B) of paragraph (1) of subdivision (c) of Section 23636.

13 (3) Each fiscal year, 25 percent of the aggregate amount of the  
14 credit that may be allocated pursuant to this section and Section  
15 17059.2 shall be reserved for “small business,” as defined in  
16 Section 17053.73 or 23626.

17 (4) Each fiscal year, no more than 20 percent of the aggregate  
18 amount of the credit that may be allocated pursuant to this section  
19 shall be allocated to any one taxpayer.

20 (h) GO-Biz may prescribe rules and regulations as necessary to  
21 carry out the purposes of this section. Any rule or regulation  
22 prescribed pursuant to this section may be by adoption of an  
23 emergency regulation in accordance with Chapter 3.5 (commencing  
24 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
25 Government Code.

26 (i) (1) A written agreement between GO-Biz and a taxpayer  
27 with respect to the credit authorized by this section shall not  
28 restrict, broaden, or otherwise alter the ability of the taxpayer to  
29 assign that credit or any portion thereof in accordance with Section  
30 23663.

31 (2) A written agreement between GO-Biz and a taxpayer with  
32 respect to the credit authorized by this section must comply with  
33 existing law on the date the agreement is executed.

34 (j) (1) Upon the effective date of this section, the Department  
35 of Finance shall estimate the total dollar amount of credits that  
36 will be claimed under this section with respect to each fiscal year  
37 from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.

38 (2) The Franchise Tax Board shall annually provide to the Joint  
39 Legislative Budget Committee, by no later than March 1, a report  
40 of the total dollar amount of the credits claimed under this section



- 1 with respect to the relevant fiscal year. The report shall compare  
2 the total dollar amount of credits claimed under this section with  
3 respect to that fiscal year with the department's estimate with  
4 respect to that same fiscal year. If the total dollar amount of credits  
5 claimed for the fiscal year is less than the estimate for that fiscal  
6 year, the report shall identify options for increasing annual claims  
7 of the credit so as to meet estimated amounts.  
8 (k) This section is repealed on December 1, 2025.

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